

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

27464

FILE: B-214217

DATE: February 22, 1984

MATTER OF: International Waste Industries

DIGEST:

Protest that the procuring activity sent the protester the wrong amendment to a solicitation and that the protester failed as a result to submit a timely bid is denied where it does not appear that there was a deliberate effort by the contracting officials to exclude the protester from competition.

International Waste Industries (IWI) protests any award of a contract under invitation for bids (IFB) No. DLA710-84-B-0017 issued by the Defense Logistics Agency (DLA).

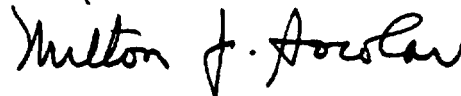
We deny the protest.

IWI contends that it received an amendment on January 6, 1984, from DLA which stated that the bid opening date was extended to January 26, 1984, and which included changes relating to the specifications used in the IFB. IWI states that it called a contracting official on January 20, 1984, to clarify certain matters in the IFB, but that the contracting official informed IWI that the bid opening date was January 20 and that bids had already been opened. IWI claims that the contracting official then realized that she had not sent IWI the amendment for the instant IFB, but rather had sent IWI an amendment to a different solicitation using the same specifications as the instant IFB. IWI concludes that the IFB should be canceled because it was unfairly omitted from participation.

We have held that it is the bidder that bears the risk of nonreceipt of a solicitation amendment. Rockford Acromatic Products Company, B-208437, August 17, 1982, 82-2 CPD 143. Consequently, the fact that IWI may have received the wrong amendment is not relevant unless it results from a conscious or deliberate effort by contracting officials to

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exclude IWI from competition. A-1 Jersey Mayflower, B-210528, April 15, 1983, 83-1 CPD 417. Since it appears from IWI's statement of the facts that IWI's failure to receive the amendment resulted from a mistake rather than from a deliberate attempt to exclude it from competition for award, the protest is without merit.

A handwritten signature in cursive script, reading "Milton J. Fowler".

Acting Comptroller General
of the United States